IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

COMPANY APPLICATION NO.565 OF 2006
IN
COMPANY PETITION NO.781 OF 2005
IN
BIFR CASE O.349 OF 2000

Raj Irrigation Pipes and Fittings Ltd. ..Applicants.
Vs.
Official Liquidator,
High Court, Bombay ..Respondent.

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Mr. M.G. Maimani for the Applicant.
Ms. K.V. Gautam, Dy. Official Liquidator present.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

22nd March, 2007.

P.C. :

In pursuance of a communication dated 1st June, 2004 by the Registrar of the B. I. F. R. intimating that the B. I. F. R. had by an order dated 25th May, 2004, passed under the provisions of Section 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 formed an opinion that it is just and equitable that the company be wound up, an order was passed by this Court on 29th September, 2005 admitting the Company Petition. A provisional liquidator was appointed. In paragraph 10 of the affidavit in

support, it has been stated that the order passed by the B. I. F. R. was stayed by the A. A. I. F. R. on 9th September, 2005. A further affidavit has been filed on 6th December, 2006 stating that the proceedings were pending before the A. A. I. F. R. as on the date of the affidavit and further hearing was fixed on 17th January, 2007. Counsel appearing for the Applicant states that the proceedings before the A. A. I. F. R. are still pending. In paragraph 2 of the order of this Court dated 29th September, 2005 it has been observed that there was nothing on the record to suggest that the company had challenged the order of the B. I. F. R. before the A. A. I. F. R. or that the order had been stayed. It would appear that on 30th June, 2004 and 27th September, 2005 a letter was addressed by the company to the Registrar of this Court intimating the filing of an appeal before the A. A. I. F. R. Copies of the said letter have been annexed to the application. Be that as it may, it would appear that the operation of the order of the B. I. F. R. was stayed on 9th September, 2005 before an order of admission was passed by this Court on 29th September, 2005. From the order of the Court it would emerge that the fact that the order of the B. I. F.R. was stayed was a circumstance which was not placed before the Court. The order of the Court indicates that no one was

present on behalf of the company, though it is the case of the Applicant that no notice was issued to the Applicant. Having regard to the provisions of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 this application which seeks recalling of the order dated 29th September, 2005 shall have to be allowed. The order dated 29th September, 2005 is accordingly recalled. The Company Application is accordingly disposed of. The Applicant is directed to file within a period of four weeks from today a further affidavit disclosing the status of the proceedings before the B. I. F. R and to file further affidavits on the expiry of every quarter placing on record the status of the proceedings. The Company Application is accordingly disposed of.